

IN THE SOUTHERN DISTRICT COURT OF WEST VIRGINIA
AT CHARLESTON

FILED

NOV - 4 2011

TERESA L. DEPPNER, CLERK
U.S. District Court
Southern District of West Virginia

ERNEST ALDERMAN,

Plaintiff,

v.

CIVIL ACTION NO. 2:10-CV-00907

Lead Case

Judge Goodwin

FOLA COAL COMPANT, LLC, a
West Virginia corporation; and
CONSOL ENERGY, INC., a
Delaware corporation,

Defendants.

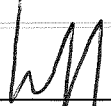
**PLAINTIFFS' MOTION TO FILE MODIFICATION TO PREVIOUSLY FILED
OBJECTIONS TO DEFENDANT'S
MOTION FOR SUMMARY JUDGMENT**

Comes now the Plaintiffs by counsel, Wayne King, and hereby moves this Honorable Court to allow Plaintiffs to file modifications and additions to the previously filed objection to the Defendant's Motion for Summary Judgment because the depositions in this matter and the attached affidavits reveal that there are genuine issues in controversy between the parties and that the Court should deny the Defendant's Motion for Summary Judgment. The affidavits attached to the original Objection of the Plaintiffs all state facts which are personally known to the affiants, they further set out facts which would be admissible during the trial of all of these matters, and the affiant was and is competent to testify about the facts contained therein and certainly these affidavits comply to Rule 56©(B)(4) of the Federal Rules of Civil Procedure.

Plaintiffs believe that the matters revealed during the taking of the depositions of John Goroncy and Chase Elswick, persons directly responsible for the identity of the employees to be included or exempted from the Reduction in Force of February, 2010, should be reviewed by the Court in the light most favorable to the Plaintiffs and after doing so, deny the Motion for Summary Judgment heretofore filed by the Defendants.

ERNEST ALDERMAN (*LEAD CASE*)

BY COUNSEL



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